

S/N 10/788,900

AMENDMENTS TO THE DRAWINGS

Please replace Figure 16 with the figure in the attached replacement sheet.

REMARKS

The non-final Office Action mailed April 16, 2008 has been reviewed and these remarks are responsive thereto. The current Office Action rejects claims 1-10 and 31-41.

I. Objections to the Drawings

A. Objections to Figures 1, 2, 3, 13, and 14 under 37 C.F.R. 1.84(p)(4)

The current Office Action objects to drawings 1, 2, 3, 13, and 14 as failing to comply with 37 C.F.R. 1.84(p)(4) because two or more reference characters have been used to designate more than one step or function.

The current Office Action objects to Figure 1 and Figure 16 on grounds that reference character 104 in Figure 1 and reference character 1606 in Figure 16 both designate “server,” that reference character 106 in Figure 1 and reference character 1610 in Figure 16 both designate “datastore,” that reference character 108 in Figure 1 and reference character 1604 in Figure 16 both designate “network,” that reference character 110 in Figure 1 and reference character 1602 in Figure 16 both designate “device,” and that reference character 112 in Figure 1 and reference character 1600 in Figure 16 both designate “user.” Applicants have amended Figure 16 and the paragraphs describing Figure 16. Applicants submit that, as amended, Figure 1 and Figure 16 comply with 37 C.F.R. 1.84(p)(4). For at least this reason, Applicants respectfully request the withdrawal of the objection to Figure 1 and Figure 16 under 37 C.F.R. 1.84(p)(4).

The current Office Action objects to Figure 2 and Figure 3 on grounds that reference character 210 in Figure 2 and reference character 300 in Figure 3 were used to designate “Exception Monitoring Screen.” Contrary to the assertion of the current Office Action, reference character 210 in Figure 2 does not designate “Exception Monitoring Screen.” Rather, reference character 210 in Figure 2 designates the interaction between operators and their workstations. See specification, paragraph 39 (“As shown in FIG. 2, operators begin their interaction with their workstations 102 by being presented with an exception monitoring screen, as shown in operation

210"). Reference character 300 designates the exception monitoring screen itself. See specification, paragraph 42 ("As can be seen from FIG. 3, the user interface includes an exception monitoring screen 300 from which one is able to access a plurality of associated patient screens 302-318"). For at least this reason, Applicants respectfully request the withdrawal of the objection to Figure 2 and Figure 3 under 37 C.F.R. 1.84(p)(4).

The current Office Action objects to Figure 13 and Figure 14 on grounds that reference character 1302 in Figure 13 and reference character 1400 in Figure 14 were used to designate "Max Allowed Wt." Contrary to the assertion of the current Office Action, reference character 1302 and reference character 1400 do not designate the same part of the invention. Rather, reference character 1302 designates a maximum weight and reference character 1400 specifies a data field. See specification, paragraph 57 ("a trigger condition satisfied if the user's weight is greater than the maximum allowed weight 1302 plus the trigger weight 1304 (expressed in lbs or as a percentage of the maximum allowed weight 1302)") and see specification, paragraph 79 ("As can be seen in FIG. 14, the weight graph window contains data fields 1400, 1402, and 1404 which permit the user to select proposed trigger settings for maximum allowed weight, trigger pounds, and minimum weight, respectively"). The maximum allowed weight is not the same as a data field that permits a user to enter the maximum allowed weight. For at least this reason, Applicants respectfully request the withdrawal of this objection to Figure 13 and Figure 14 under 37 C.F.R. 1.84(p)(4).

The current Office Action objects to Figure 13 and Figure 14 on grounds that reference character 1304 in Figure 13 and reference character 1402 in Figure 14 were used to designate "Trigger lbs." Contrary to the assertion of the current Office Action, reference character 1304 and reference character 1402 do not designate the same part of the invention. Rather, reference character 1304 designates trigger pound data and reference character 1402 specifies a data field. See specification, paragraph 57 ("a trigger condition satisfied if the user's weight is greater than the maximum allowed weight 1302 plus the trigger weight 1304 (expressed in lbs or as a percentage of the maximum allowed weight 1302)") and see specification, paragraph 79 ("As

can be seen in FIG. 14, the weight graph window contains data fields 1400, 1402, and 1404 which permit the user to select proposed trigger settings for maximum allowed weight, trigger pounds, and minimum weight, respectively”). The trigger pound data is not the same as a data field that permits a user to enter the trigger pounds. For at least this reason, Applicants respectfully request the withdrawal of this objection to Figure 13 and Figure 14 under 37 C.F.R. 1.84(p)(4).

The current Office Action objects to Figure 13 and Figure 14 on grounds that reference character 1306 in Figure 13 and reference character 1404 in Figure 14 were used to designate “Min Wt.” Contrary to the assertion of the current Office Action, reference character 1306 and reference character 1404 do not designate the same part of the invention. Rather, reference character 1306 designates minimum weight data and reference character 1404 specifies a data field. See specification, paragraph 57 (“a trigger condition satisfied if the user's weight is less than the minimum allowed weight 1306”) and see specification, paragraph 79 (“As can be seen in FIG. 14, the weight graph window contains data fields 1400, 1402, and 1404 which permit the user to select proposed trigger settings for maximum allowed weight, trigger pounds, and minimum weight, respectively”). The minimum weight data is not the same as a data field that permits a user to enter the minimum weight. For at least this reason, Applicants respectfully request the withdrawal of this objection to Figure 13 and Figure 14 under 37 C.F.R. 1.84(p)(4).

The current Office Action objects to Figure 13 and Figure 14 on grounds that reference character 1312 in Figure 13 and reference character 1410 in Figure 14 were used to designate “Wt. Graph.” Contrary to the assertion of the current Office Action, reference character 1312 and reference character 1410 do not designate the same part of the invention. Reference character 1312 designates “a button 1312 entitled ‘weight graph.’” Specification, paragraph 57. Reference character 1410 designates a set of days on which an exception would have been identified. See specification, paragraph 79 (“an exception would have been on the days identified by reference numeral 1410”). For at least this reason, Applicants respectfully request the withdrawal of this objection to Figure 13 and Figure 14 under 37 C.F.R. 1.84(p)(4).

B. Objections to Figures 2, 10, 13, and 17 under 37 C.F.R. 1.84(p)(5)

The current Office Action objects to the drawings as failing to comply with 37 C.F.R. 1.84(p)(5) because they include the following reference characters not mentioned in the description: Figure 2 – 212, Figure 10 – 1002, Figure 13 – 1314, and Figure 17 – 1706.

Contrary to the assertion of the current Office Action, Applicants' specification mentions reference character 1002 at paragraph 71. Furthermore, contrary to the assertion of the current Office Action, Applicants' specification mentions reference character 1314 at paragraph 81.

Applicants have amended paragraph 40 and paragraph 94 of the specification. As amended, paragraph 40 mentions reference character 212 and paragraph 94 mentions reference character 1706.

For at least these reasons, Applicants respectfully request the withdrawal of the objection to Figures 2, 10, 13, and 17 under 37 C.F.R. 1.84(p)(5).

C. Objection to Figure 17 under 37 C.F.R. 1.84(p)(4)

The current Office Action objects to the drawings as failing to comply with 37 C.F.R. 1.84(p)(4) because reference character 1704 (Figure 17) has been used to designate both "Decision Trees" (paragraph [0091] and [0092] of specification) and "2-Dimensional Matrix" (paragraph [0094] of specification). Applicants have amended paragraph 94 of Applicants' specification. As amended, paragraph 94 of Applicants' specification uses the reference character 1706 to refer to the "2-Dimensional Matrix." For at least this reason, Applicants respectfully request the withdrawal of the objection under 37 C.F.R. 1.84(p)(4) to Figure 17.

II. Claim Rejections Under 35 U.S.C. § 102(b)

The current Office Action rejects claims 1, 2, 4, 6, 7, 9, 10, 31, 32, 35-39, and 41 under 35 U.S.C. § 102(b) as being anticipated by Iliff, U.S. Patent No. 5,594,638 (hereinafter, "Iliff"). Applicants respectfully traverse the rejections for the following reasons.

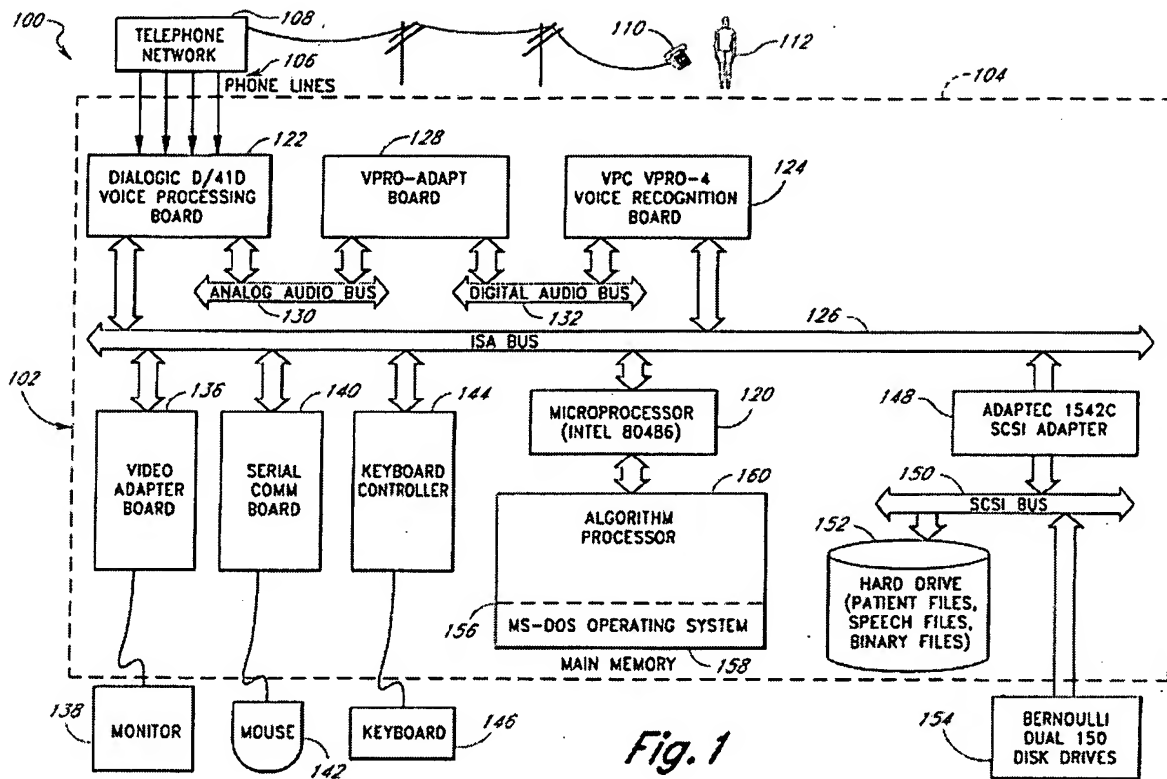
A prior art reference anticipates a claim of a patent application only when the prior art reference teaches each and every element of the claim. See Verdegaal Bros. v. Union Oil Co. of

California, 814 F.2d 628, 631 (Fed. Cir. 1987) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”). This well known principle is known as the “all-elements rule.”

A. Claims 1, 2, 4, 6, 7, and 9

Independent claim 1 requires a monitoring device having a microprocessor operably coupled to a memory unit, an input device, an output device, and a communication device. Furthermore, claim 1 requires the memory unit being programmed with a set of instructions for posing questions to the person via the output device, receiving answers from the person via the input device, and transmitting the answers to a remote computer via the communication device. In addition, claim 1 requires the remote computer to be programmed to determine whether the person should have health care professional attention based at least in part upon the answers entered into the input device. These requirements of claim 1 clearly illustrate that the “monitoring device” and the “remote computer” are separate devices.

The current Office Action cites Iliff, col. 7, line 63, to demonstrate that Iliff teaches a monitoring device having a microprocessor operably coupled to a memory unit. Iliff, col. 7, line 63, states, “A main memory 156 connects to the microprocessor 120.” By citing this passage, the current Office Action suggests that “computer 102” of Iliff teaches the monitoring device required by claim 1. This is because Fig. 1 of Iliff clearly shows that “main memory 156” and “microprocessor 120” are components of “computer 102” of Iliff. Fig. 1 of Iliff is reproduced below:



The current Office Action cites Iliff, col. 35, lines 33-42, to demonstrate that Iliff teaches that the remote computer is programmed to determine whether the person should have health care professional attention based at least in part upon the answers entered into the input device state. Iliff, col. 35, lines 33-42, state:

“Therefore, at state 474, the system 100 determines if a serious medical condition exists. If so, the system 100 moves to state 486, plays a message that advises the patient to seek immediate medical attention and ends the evaluation process 254 at a terminal state 488. If it is determined at state 474 that a serious medical condition does not exist, the system 100 proceeds to a complaint menu at state 475 and recites a list of algorithms dealing with the problem that corresponds to the anatomic system selected. The patient then selects an algorithm from the list.”

By citing this passage, the current Office Action suggests that “computer 102” of Iliff teaches the remote computer required by claim 1. This is because “computer 102” is the only device in “system 100” of Iliff that could perform the actions described in this passage. See Iliff, Fig. 1. In other words, there is no suggestion in Iliff that “telephone 110,” “monitor 138,” “mouse 142,” “keyboard 146,” or “Bernoulli Dual 150 disk drives 154” determine if a serious medical condition exists. Therefore, by process of elimination, “computer 102” must be the device that performs the actions described in this passage.

Thus, the current Office Action is suggesting that “computer 102” of Iliff teaches the monitoring device required by claim 1 and the “remote computer” required by claim 1. If indeed “computer 102” of Iliff teaches the monitoring device required by claim 1 and the remote computer required by claim 1, computer 102 of Iliff cannot teach “the memory unit being programmed with a set of instructions for transmitting the answers to a remote computer via the communication device,” as required by claim 1. In other words, if the “computer 102” is both the monitoring device and the remote computer, then “computer 102” would be transmitting the answers to itself. This situation is not taught or suggested by Iliff. It is therefore apparent that Iliff does not teach both the monitoring device and the remote computer required by claim 1.

Furthermore, the current Office Action cites Iliff, col. 6, lines 34-37, to demonstrate that Iliff teaches transmitting the answers to a remote computer via the communication device. Iliff, col. 6, lines 34-37, states: “The MDATA system asks the caller specific questions and then analyzes each response. Voice recognition and interactive voice response technology allows callers to respond to yes/no and multiple choice questions either by speaking directly into the telephone or by using the touch tone pad of their telephone.” By citing this passage, the current Office Action suggests that the patient’s telephone teaches the monitoring device of claim 1 and that the MDATA system (i.e., “computer 102”) teaches the remote device. But, as described above, the current Office Action already indicated that “computer 102” is the monitoring device. Therefore, Iliff fails to teach transmitting the answers to a remote computer via the communication device.

For at least these reasons, Iliff does not teach or suggest all elements of claim 1. Because Iliff does not teach or suggest all elements of claim 1, Iliff does not anticipate claim 1 within the

meaning of 35 U.S.C. § 102(b). Moreover, because Iliff does not teach or suggest all elements of claim 1, Iliff does not anticipate the dependent claims of claim 1. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 1, 2, 4, 6, 7, and 9 under 35 U.S.C. § 102(b).

B. Claims 31, 32, 35-39, and 41

Among other requirements, independent claim 31 requires a monitoring device having a microprocessor operably coupled to a memory unit, an input device, an output device, and a communication device, the memory unit being programmed with a set of instructions for posing questions to the person via the output device, receiving answers from the person via the input device, and transmitting the answers to a remote computer via the communication device. Furthermore, claim 31 requires the remote computer being programmed to determine whether the person should have health care professional attention based at least in part upon the answers entered into the input device.

Although these requirements of claim 31 are not identical to the requirements of claim 1 discussed above, the reasoning applied with regards to the requirements of claim 1 is applicable with regard to these requirements of claim 31. In particular, the reasoning applied with regards to the requirements of claim 1 shows that Iliff does not teach both a monitoring device and a remote computer, as required by claim 1. Similarly, the reasoning applied with regards to the requirements of claim 1 shows that Iliff does not teach or suggest both a monitoring device and a remote computer, as required by claim 31.

For at least this reason, Iliff does not teach or suggest all elements of claim 31. Because Iliff does not teach or suggest all elements of claim 31, Iliff does not anticipate claim 31 within the meaning of 35 U.S.C. § 102(b). Moreover, because Iliff does not teach or suggest all elements of claim 31, Iliff does not anticipate the dependent claims of claim 31. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 31, 32, 35-39 and 41 under 35 U.S.C. § 102(b).

III. Claim Rejections Under 35 U.S.C. § 103(a)

The current Office Action rejects claims 3, 5, 8, 33, 34, and 40 under 35 U.S.C. § 103(a) as being unpatentable over Iliff in view of Brown, U.S. Patent Application Publication No. 2003/0069753 A1 (hereinafter "Brown"). For the reasons stated below, Applicants respectfully traverse the rejections of claims 3, 5, 8, 33, 34, and 40 under 35 U.S.C. § 103(a) over Iliff in view of Brown.

The current Office Action suggests that claims 3, 5, 8, 33, 34, and 40 are obvious based on the rationale that prior art elements may be combined according to known methods to yield predictable results. As explained at Section 2143(A) of the Manual of Patent Examining Procedure (MPEP), to provide a prima facie case of obviousness under this rationale, Office personnel must articulate a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

A. Claims 3, 5, and 8

Claims 3, 5, and 8 are dependent claims of claim 1. As discussed above, Iliff does not teach or suggest all elements of claim 1. Furthermore, the current Office Action does not suggest that Brown teaches or suggests the elements of claim 1 that are not taught or suggested by Iliff. Because the current Office Action does not cite references that teach or suggest all elements of claim 1, the current Office Action does not provide a prima facie case of obviousness under 35 U.S.C. § 103(a) against the dependent claims of claim 1. For at least this reason, Applicants respectfully request the withdrawal of the rejections of claims 3, 5, and 8 under 35 U.S.C. § 103(a).

B. Claims 33, 34, and 40

Claims 33, 34, and 40 are dependent claims of claim 31. As discussed above, Iliff does not teach or suggest all elements of claim 31. Furthermore, the current Office Action does not suggest that Brown teaches or suggests the elements of claim 31 that are not taught or suggested

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by Iliff. Because the current Office Action does not cite references that teach or suggest all elements of claim 31, the current Office Action does not provide a prima facie case of obviousness under 35 U.S.C. § 103(a) against the dependent claims of claim 31. For at least this reason, Applicants respectfully request the withdrawal of the rejections of claims 33, 34, and 40 under 35 U.S.C. § 103(a).

CONCLUSION

In view of the foregoing remarks, Applicants respectfully submit that the claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Additionally, the Commissioner is hereby authorized to charge any additional fees as set forth in §§ 38 CFR 1.16 to 1.18 which may be required for entry of these papers or to credit any overpayment to Deposit Account No. 13-2725.

Respectfully submitted,
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